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Daily News Clips
July 2, 2019

ACE Rule

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ACE Rule

The New York Times

Climate Change Denialists Dubbed Auto Makers the 'Opposition' in Fight Over Trump's Emissions Rollback

<https://www.nytimes.com/2019/07/02/climate/climate-deniers-auto-emissions-rollback.html>

By Hiroko Tabuchi

In the early months of the Trump administration, automakers pleaded for — and appeared set to receive — some relief from fuel economy standards that they said were too difficult to meet.

But newly released government emails show how a coalition of groups that reject established climate science quickly muscled into the picture, urging the administration to go much further and roll back the rules entirely and characterizing the automakers as their opponents in achieving that goal.

“The automakers are not going to help and may be part of the opposition,” wrote Myron Ebell, a senior figure at the Competitive Enterprise Institute, a free-market think tank in Washington that disputes that climate change is a problem, in a May 2018 email sent to supporters and an official at the Environmental Protection Agency.

The administration must stick with the rollback, he said in the email, addressed to members of the “Cooler Heads Coalition,” a loose-knit group of climate denialists that Mr. Ebell leads.

Automakers have in fact balked at the Trump administration’s plan, which in its most extreme scenario proposes to substantially weaken Obama-era standards that would have doubled the fuel economy requirement of new cars by 2025.

Last month, 17 automakers asked Mr. Trump to soften his approach, saying his plan threatened to hurt their profits and produce “untenable” instability given that California and 13 other states, as well as Canada, are expected to stick with the stricter standards — raising the specter of a national auto market split in two, and a nasty legal battle.

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At a congressional panel last week, administration officials gave no sign of easing their stance.

“In my experience, these rules tend to go to the courts regardless,” said Heidi King, the deputy administrator for the National Highway Traffic Safety Administration, which is crafting the new standards with the E.P.A. and has taken the lead on the rule-making.

The correspondence, released by the Environmental Protection Agency to the Sierra Club under a public records request, underscores the rising influence of climate denialist groups, which jumped from the fringe to the mainstream in the Trump administration and now hold sway in federal policymaking. Mr. Ebell of the C.E.I. think tank, which challenges “global warming alarmism” and spearheaded the opposition to the Paris Agreement, was chosen to lead Mr. Trump’s environmental transition team.

The rules being rolled back were a signature part of the Obama administration’s plan to fight climate change. The atmosphere is warming because of greenhouse gas emissions linked to human activity, and climate change is already contributing to extreme weather globally, including stronger storms, more extensive flooding and heat waves.

Assuming the Trump administration’s plan is finalized and survives legal challenges, America’s cars and trucks would emit as much as an extra 321 million to 931 million metric tons of carbon dioxide into the atmosphere between now and 2035 as a result of the weaker rules, according to an analysis by the research firm Rhodium Group.

In 2018, Mr. Ebell’s group weighed in at a critical juncture in the policymaking process — one day before auto executives were scheduled to visit the White House to urge Mr. Trump to temper his rollback. “We understand that some in the automaker community have expressed concerns about your current plans to reform the program,” Mr. Ebell wrote in a May 10, 2018, letter to Mr. Trump, signed by him along with two other people who assisted with the transition.

“Their main concern is the expected legal battle with California,” they wrote. “In fact, what many liberal California politicians really want to do is ban gasoline-powered cars altogether.” Their letter went on to say: “You should dismiss

this concern. We agree that in an ideal world, California would negotiate with you in good faith, but we all know that is not a reality in this current political climate.”

In an interview, Mr. Ebell said his group had succeeded in influencing the rule-making, in particular convincing the Trump administration that forcing automakers to build cleaner cars will lead to more highway accidents and deaths. Auto experts have largely debunked that assertion.

“It’s taken a long time but finally the Trump administration has come around. Lighter, smaller cars are less safe than bigger, heavier cars,” he said. “The automakers are in a hopeless position,” he added. “California is not going to negotiate. A deal that everyone can live with is not going to happen.”

The Auto Alliance, which represents some of the country’s largest automakers, declined to comment.

The newly released government correspondence also hints at the influence of fossil fuel money in the policymaking process. The New York Times reported in December that Marathon Petroleum, the country’s largest refiner, worked with a powerful fuel-industry group, American Fuel and Petrochemical Manufacturers, to run a stealth campaign to roll back car emissions standards.

Mr. Ebell’s C.E.I. and other groups have previously received funding from the fuel-manufacturers’ organization, though as a nonprofit, the C.E.I. is not required under law to disclose its donors, making it difficult to verify current funding.

Last month, Congress opened an investigation into petroleum companies’ involvement in the rollback.

The latest emails also show Trump administration officials in contact with other free market groups like the Heritage Foundation and FreedomWorks, both of which have supported the rollback, as well as the American Legislative Exchange Council, an organization run by mostly Republican state legislators and corporations that work together to write and promote model legislation for the nation’s statehouses.

In one email, in June 2018, an ALEC staffer wrote to Michael Abboud, the E.P.A. press secretary, to introduce him to the head of ALEC’s task force on energy, environment and agriculture, Grant Kidwell. Mr. Kidwell “would love the connection to the EPA,” the staffer wrote.

“Thanks for the introduction!,” Mr. Abboud responded. “I would love to get together for coffee and chat?” ALEC, which has said it welcomes debate among its members on climate change and has promoted policies that would lead to more emissions, later adopted a model resolution that “fully supports” a rethinking of the fuel economy standards.

Mr. Kidwell said he and Mr. Abboud did not interact until they ran into each other at a networking event this year. ALEC opposed the Obama-era fuel economy standards, Mr. Kidwell said, because “Americans should be able to buy vehicles they prefer.”

Mr. Abboud declined to comment specifically on the email. The “E.P.A. takes time to meet with stakeholders on a variety of regulatory issues,” he said in an agency statement. “This is no different.”

The denialists’ outreach to the administration has taken other forms. American Commitment, another conservative group, helped generate almost 1,600 public comments in support of the rollback, or 13 percent of the 12,000 comments received and posted by the National Highway Traffic Safety Administration.

Many of the comments shared common language. “I believe the Obama/California scheme was designed with the ultimate goal of banning the internal combustion engine,” they said in part. “I fully support President Trump’s plan to freeze the fuel economy mandate and stop Sacramento liberals from telling me what kind of car I can drive.”

Public comments like these are important because federal rules require their collection, and if a final rule is ever challenged in court (as California has threatened to do) the public comments become part of the body of evidence for a legal case showing public sentiment.

Phil Kerpen, American Commitment's president, said that his staff had worked with the federal agency to make a "large bulk submission" of comments solicited from the group's supporters. "We can't count on the automakers to carry this fight," Mr. Kerpen said.

Some fossil fuel companies have distanced themselves from these efforts.

In a letter sent in June by the oil giant BP to Andrew Wheeler, the E.P.A. administrator, the company sided with automakers (referring to them by the acronym for original-equipment manufacturers) in urging Mr. Wheeler to keep working to improve fuel economy, according to the letter, a copy of which was reviewed by The New York Times.

"We believe — along with many of the auto OEMs — that continuous improvement" in engine efficiency is possible, it said. BP declined to comment.

E15

Politico

Oil refiners key in on Perdue

<https://www.politico.com/newsletters/morning-energy/2019/07/02/oil-refiners-key-in-on-perdue-453263>

Kelsey Tamborrino

DRIVING THE DAY

SONNY WITH A CHANCE: Oil refiners are trying to put Agriculture Secretary Sonny Perdue on the sidelines in the latest skirmish over the Renewable Fuel Standard. Several oil-state senators sent a letter to President Donald Trump on Monday asking the president to rein in Perdue, Pro's Eric Wolff reports. The letter comes as the Trump administration tries to balance demands from two powerful lobbies and their backers on Capitol Hill.

EPA recently fulfilled Trump's promise to expand sales of 15-percent ethanol blends, but farmers still complained to Trump they were suffering because of the dozens of economic hardship waivers the agency has granted that free refiners from the mandate to blend biofuels. In turn, the president has pressed Perdue and EPA Administrator Andrew Wheeler to craft a plan that would address those waivers, a move refinery supporters in Monday's letter contend violates Perdue's role under the Clean Air Act.

"We would view any decisions to further delay, reduce, or deny hardship relief to small refineries, or to reallocate the obligations of small refineries to other refineries, as the result of the Secretary of Agriculture's impermissible interference," according to the letter led by Senate EPW Chairman John Barrasso.

The refining industry said it would ramp up its efforts to sway the White House to keep the waivers, Eric reports. "These letters are as much about communicating to the president how strong people feel about this as they are to making the point on the subject matter," one refining industry source told Eric. "We'll see what he thinks after a lot more advocacy ends up in front of the White House."

The refinery left behind: For all the oil behemoths receiving exemptions from the RFS, specialty lube oil and diesel maker Ergon-West Virginia can't seem to get the time of day from EPA. Ergon said it applied for exemptions for the 2016, 2017 and 2018 compliance years, but EPA has not acted within required time limits, and now Ergon will take the agency to court — again. The refiner won a 4th Circuit case last year requiring EPA to reexamine an Obama-era rejection of its exemption request.

EPA Staff

Greenwire

EPA, OIRA veteran joins U.S. Chamber

Nick Sobczyk, E&E News reporter

Chad Whiteman, a veteran of EPA and the White House Office of Information and Regulatory Affairs, has joined the U.S. Chamber of Commerce Global Energy Institute as vice president for environment and regulatory affairs, the group announced yesterday.

Whiteman previously spent nearly a decade in OIRA's natural resources and environment division, first as a policy analyst and later as deputy chief.

He helped lead White House reviews of environmental regulations during the Obama and Trump administrations, including the Affordable Clean Energy rule and fuel efficiencies standards.

Chad Whiteman. Photo credit: U.S. Chamber of Commerce

Chad Whiteman. U.S. Chamber of Commerce

At the U.S. Chamber, he'll manage the Global Energy Institute's environment and clean air work with Congress and federal agencies at a time when the business group is adjusting its posture on issues like climate change (E&E Daily, June 11).

"Chad's extensive experience working on environmental regulatory issues will be a huge asset for the Chamber and our members as we work to ensure a common sense regulatory environment that continues environmental progress while protecting economic growth," Christopher Guith, acting president of the Global Energy Institute, said in a statement.

Whiteman began his career in the Peace Corps in 1996 as an environmental management volunteer after getting a master's degree in environmental engineering from West Virginia University, according to his LinkedIn page.

He spent four years as an environmental engineer at EPA during the Clinton and George W. Bush administrations. He then took a post as deputy director of the Institute of Clean Air Companies.

At EPA, Whiteman worked on implementation of market-based regulatory programs, including the Acid Rain Program and the NOx Budget Trading Program.

"The perspective I have is as a regulator working at EPA and then reviewing draft regulations, I understand how the regulatory process works, both process and things that are considered across different administrations," he said in an interview.

Greenwire

'There was no call': Inside Pruitt's mining group meeting

<https://www.eenews.net/greenwire/stories/1060686187/search?keyword=EPA>

Kevin Bogardus, E&E News reporter

Investigators didn't uncover concrete evidence that former EPA Administrator Scott Pruitt had pushed a prominent trade group to weigh in against the Paris Agreement.

The EPA Office of Inspector General's Office of Investigations conducted a dozen interviews with agency officials and members of the National Mining Association to uncover who said what in an April 2017 meeting with Pruitt. The fact-finding inquiry, outlined in records obtained by E&E News under the Freedom of Information Act, was requested to establish whether the former administrator had pressured NMA to push for the United States to withdraw from the climate change accord.

If Pruitt had been found to have done so, it could have been a violation of anti-lobbying provisions in appropriations law. Instead, the OIG's agents found conflicting accounts of what the ex-EPA chief said in the meeting, according to the documents, which were pockmarked with redactions.

While some of those interviewed said Pruitt did discuss the Paris deal and his position in opposing it, others said he never mentioned the agreement. Further, everyone interviewed either denied or did not remember Pruitt asking NMA members to support withdrawal from the climate pact.

One person told OIG agents that Paris was "briefly discussed" in a private meeting between Pruitt and NMA members after his speech to the group.

"'There was no call' from Administrator Pruitt to the miners to pressure the president into withdrawing from the Paris Agreement on Climate Change," the person said, adding that Pruitt's position on the deal was that "withdrawing is a good thing."

Another person interviewed said during his speech and private meeting with NMA, Pruitt mentioned the climate agreement, saying "that 'the U.S. should withdraw from the Paris accord,' and added that [redacted] former Administrator Pruitt said that the Paris accord is unfair and that 'the U.S. should withdraw.'"

But the same person said neither Pruitt nor anyone on EPA staff asked for public support for leaving the agreement.

Others interviewed didn't even remember the former administrator mentioning the climate pact.

"Regarding [redacted] recollection of whether former Administrator Pruitt discussed the Paris Climate Accord, NMA04 said 'I don't think he did,'" said one interviewee. That person added that Pruitt was focused on "the EPA's priorities and regulations, such as rolling back some of the EPA laws."

Another interviewee said they "did not hear the Administrator mention anything related to his support for the U.S. to withdraw from the Paris Agreement on Climate Change."

Like others, that person was asked whether Pruitt urged those with NMA to push for backing out of Paris.

"Did you hear Mr. Pruitt ask any of the National Miners Association [sic] members to pressure the President into withdrawing from the Paris Climate Change Agreement?"

Their response: "No."

One interview was mistakenly excluded from the records released under FOIA last week. The OIG yesterday released the missing interview.

In that interview, the person said they also didn't remember Pruitt mentioning the Paris accord and denied the former administrator suggested to the mining group to support withdrawal from the climate pact.

Some of those interviewed by OIG agents said Pruitt had no influence on NMA's position on Paris.

One interviewee "stated the meeting with former Administrator Pruitt had no impact on [redacted] personal or organizational decision to send a letter to President Trump expressing support of the U.S. withdrawal from the Paris Climate Accord."

Another person interviewed suggested NMA was already considering supporting withdrawal from the climate pact before the group's meeting with Pruitt.

"Arrangements to convene a meeting to vote on whether or not to support the U.S. withdrawal from the Paris climate accord were made before [redacted] met with former Administrator Pruitt," said the report.

"Therefore, said meeting or the decisions made by [redacted] in said meeting were not influenced by former Administrator Pruitt's meeting" with the mining trade group.

After meeting with Pruitt, NMA took a more forceful position on the agreement. The group soon sent a letter to the president saying the Paris accord was harmful to miners (Climatewire, April 28, 2017).

At the time, top officials in the Trump administration were divided on Paris, with some arguing to stay in the agreement while others advocated to withdraw. Pruitt was with the latter side as one of the climate pact's most vocal opponents.

Pruitt's campaign against the Paris accord earned him national attention. After Trump announced his decision to leave the deal during a White House Rose Garden speech, the then-EPA administrator gave remarks and praised the decision to withdraw.

A spokesman with the mining trade group said Pruitt never asked NMA to take a position on the Paris deal.

"In attending the meeting, the Administrator never requested any action from NMA or its membership with regard to Paris; reporting at the time that suggested otherwise was and is entirely false. His remarks delivered to membership were consistent with his public comments at the time, and went no further," said NMA spokesman Conor Bernstein.

Pruitt's official calendar shows on April 24, 2017, that he was scheduled for a speaking engagement at the NMA board of directors meeting at the Ritz-Carlton Golf Resort in Naples, Fla., followed by a subsequent meeting with the NMA executive committee.

For its inquiry, the OIG conducted seven interviews with NMA members and five interviews with EPA staffers. The interviews first began in April 2018, about a year after the meeting took place, and were completed by October.

OIG agents showed their law enforcement credentials before some of the interviews started, according to records. NMA members were interviewed over the telephone, and attorneys with the mining group were often present for those interviews.

Acting EPA IG Charles Sheehan said in a letter to Rep. Frank Pallone (D-N.J.), chairman of the House Energy and Commerce Committee, included with the records, that before agreeing to interviews with investigators, NMA members requested confidentiality. Consequently, their personal information was removed from written accounts of their interviews.

In addition, Sheehan said in his letter to Pallone that the watchdog office agreed to compile "a factual record" of Pruitt's April 2017 meeting with NMA. "In turn, you may provide the OIG record to the [Government Accountability Office]," Sheehan said.

"This was a fact-finding matter," the OIG's closing report concluded, saying records had been provided to Congress. "No further action is required. As such, this matter is being closed."

Pruitt is no longer at the agency. He resigned from EPA last July as he battled against allegations he had misused his public office.

The OIG previously disclosed in its latest semiannual report released in May that it had ended the inquiry. E&E News was directed to file a FOIA request for its results, resulting in the release of the records (Greenwire, May 30).

Pallone had requested the inquiry in a letter to the IG, asking EPA's internal watchdog to "develop a comprehensive factual record" of where Pruitt may have violated anti-lobbying provisions in his push to have the United States withdraw from the Paris accord, including his April 2017 meeting with NMA.

A committee spokeswoman said Pallone had passed the OIG's record of the meeting on to GAO and recommended that E&E News contact it for what it planned to do next. Pallone had also asked GAO to look into the matter.

The congressional watchdog office is not pursuing any further action, said GAO spokesman Chuck Young.

Law and Lawsuits

Bloomberg Environment

Eastern States Try Again to Curb Air Pollution From Pennsylvania

<https://news.bloombergenvironment.com/environment-and-energy/eastern-states-try-again-to-curb-air-pollution-from-pennsylvania>

Amena H. Saiyid

Eastern states struggling to meet federal ozone limits are trying a new approach to force Pennsylvania to curb power plant pollution.

The 12 states making up the Ozone Transport Commission voted to act on a petition from Maryland that would require Pennsylvania to run daily controls to curb ozone-forming pollution from its power plants.

Power plants are the largest source of nitrogen oxides, a precursor to ground-level ozone, which causes a variety of health problems, especially for children, the elderly, and people with asthma.

Maryland's petition is an attempt to use a new Clean Air Act argument and the latest air pollution data to deal with the issue of out-of-state ozone-forming pollution. The Environmental Protection Agency rejected the state's previous petition—as well as those filed by New York, Delaware, and Connecticut—to require controls on coal-fired power plants in Pennsylvania and other upwind states.

The Ozone Transport Commission is required to perform its own analysis of Maryland's air pollution data and seek public comment before asking the EPA—which would then also do its own analysis before deciding whether to impose any additional requirements on Pennsylvania.

The commission represents Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and Virginia, as well as the District of Columbia.

'An Historic Step'

Pennsylvania disagreed with Maryland and voted against moving the petition forward, John Repetz, a Pennsylvania Department of Environmental Protection spokesman, told Bloomberg Environment.

"All of the power plants noted in the petition are in compliance and are not expected to emit at rates that would violate state or federal limits. EPA has already considered and denied the same arguments Maryland is raising in this [Ozone Transport Commission] petition," Repetz wrote in a statement.

The commission said it will soon release a notice and request for public comment in its June 26 statement, which was posted July 1 on its website.

Maryland welcomed the news.

"The Ozone Transport Commission took an historic step to fight interstate smog in the Chesapeake region, adopting Maryland's petition calling for Pennsylvania utilities to run air pollution controls every day during the summer when it matters most," Benjamin Grumbles, Maryland's environment secretary, said in a statement.

Maryland's new petition, with a new data analysis, asked the majority of commissioners in the group to recommend that the EPA require Pennsylvania to run the controls "in an optimized manner every day" of the ozone season, which runs March through October.

Maryland invoked a separate Clean Air Act provision, known as Section 184(c), to ask the commission to approve its petition, which would issue a recommendation to the EPA if a majority of commissioners agree.

Bloomberg Environment

EPA Sued to Force Livestock Farms to Report Air Pollution

<https://news.bloombergenvironment.com/environment-and-energy/epa-sued-to-force-livestock-farms-to-report-air-pollution>

Tiffany Stecker

Nearly a dozen environmental and community organizations are challenging the EPA for no longer requiring livestock farmers to report air pollution from animal waste to state and local governments.

The environmental law group Earthjustice filed a complaint July 1 in U.S. District Court for the District of Columbia opposing the Environmental Protection Agency's rule (RIN:2050-AH00) exempting animal farm operators from reporting requirements under the Emergency Planning and Community Right-to-Know Act.

Administrator Andrew Wheeler signed the rule June 4 to remove what the agency viewed as an "onerous" reporting requirement that hampers local emergency response agencies.

But the changes let farmers off the hook from disclosing ammonia and hydrogen sulfide emissions, which can trigger respiratory diseases, nasal and eye irritation, headaches, nausea and in some cases lead to death, according to the lawsuit.

"Trump's EPA wants meat factories to keep their toxic air emissions secret, despite a clear statutory mandate to disclose, once again promoting the interest of some of the worst polluters at the expense of public health," Carrie Apfel, a staff attorney for Earthjustice's Sustainable Food and Farming Program, said in a statement.

Builds on Existing Suit

The July 1 action builds on an existing lawsuit in which Earthjustice challenged the EPA's posting of guidance regarding reporting animal waste emissions. The EPA didn't immediately respond to Bloomberg Environment's request for comment.

Congress passed a provision in the 2018 omnibus spending package directing the EPA to exempt livestock reporting requirements from the Comprehensive Environmental Response, Compensation, and Liability Act, or Superfund law.

The provision reversed a 2017 ruling by the U.S. Court of Appeals for the District of Columbia Circuit in *Waterkeeper Alliance v. EPA*, in which the court found that the EPA couldn't legally exempt animal farms reporting their emissions under CERCLA and EPCRA. However, Congress only addressed the exemptions under CERCLA, which requires reporting of hazardous emissions to the federal government. EPCRA requires reporting of hazardous emissions to state and local governments.

Earthjustice is representing the Rural Empowerment Association for Community Help, Animal Legal Defense Fund, Center for Biological Diversity, Center for Food Safety, Don't Waste Arizona, Environmental Integrity Project, Food & Water Watch, Humane Society of the United States, Sierra Club, Sound Rivers, and Waterkeeper Alliance.

The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg. Bloomberg Environment is operated by entities controlled by Michael Bloomberg.

The case is *Rural Empowerment Ass'n for Cmty. Help v. EPA*, D.D.C., No. 18-cv-2260, 7/1/19.

Bloomberg Environment

Former EPA Staffers Denounce Move to Exempt Texas From Air Rules

<https://news.bloombergenvironment.com/environment-and-energy/former-epa-staffers-denounce-move-to-exempt-texas-from-air-rules>

Paul Stinson

An EPA bid to grant Texas a sought-after exemption to a 2015 startup air emissions rule would set a dangerous precedent for other regions to seek similar exemptions and expose residents to more pollution, a group of former EPA staffers told the agency.

At issue is the agency's publication of a draft rule in the Federal Register saying it was "considering an alternative interpretation" to EPA's 2015 air pollution policy.

The draft rule would reinstate immunity lost in 2015 for industrial facilities that emit air pollution during malfunction, startup, and shutdown (MSS) operations—the times when air emissions typically intensify.

The Environmental Protection Network—which represents former and retired employees of the EPA—said in public comments the proposal fails to justify the need for an alternate take to an Obama-era rule requiring states to alter their pollution plans concerning excess air emissions during MSS events at industrial facilities. The period for public comments closed June 28.

"This proposal does not provide an adequate or satisfactory explanation for why in this particular case it is warranted or appropriate or justified for Region 6 to do something different than the national policy and something different than all the other regions are doing," said EPN member Janet McCabe, who headed the department's air and radiation office under President Barack Obama.

Texas is one of 36 states subject to a 2015 air rule that requires removing provisions shielding power plants and other industrial facilities from being subject to civil penalties over MSS-related emissions violations.

EPA Region 6 officials could not immediately be reached for comment.

'Affirmative Defense' Concerns

The network further asserted the proposal to approve Texas' alternative interpretation would have the effect of sanctioning emissions of "substantial amounts" of air pollution excused from enforcement because of an "affirmative defense" provision in the Texas plan.

"If finalized, this rule would open the door to any other EPA Region to seek a similar exception to the national policy," the letter reads.

“The underlying thing that Texas wants to do, is they have a provision in their state rules that would allow a company if it has excess emissions due to an upset or malfunction or something like that—then it would be allowed under this rule to offer an affirmative defense,” McCabe said.

Typically, if a source violates its emissions limits, the state or the EPA issues a notice of violation and takes enforcement action, holding the company responsible for those excess emissions, she said.

“What this rule would say is: ‘Well, we have enshrined in our regulations some built-in excuses for why that’s okay,’” McCabe added.

Oil & Gas Group Welcomes Development

Todd Staples, president of the Texas Oil and Gas Association, said the proposal struck a balance between environmental concerns and economic development.

“Regulatory policies must be grounded in reality,” Staples told Bloomberg Environment in an emailed statement following the association’s June 27 public comments submitted to the federal agency.

“This policy is a fair and balanced approach that maintains high standards for protecting our environment while ensuring operations meet the needs of our growing state and nation,” Staples added.

Issuance of the draft proposal follows a March 2017 Texas petition to the federal agency to secure an exemption from these requirements. EPA agreed, and responded with a draft proposal for Texas to amend its plan to allow these excess emissions.

Boston Globe

EPA prosecutions decline sharply, especially in New England’

<https://www.bostonglobe.com/metro/2019/07/02/epa-prosecutions-decline-sharply-especially-new-england/OmzFCTr54k5qe6SifECnFN/story.html>

By David Abel

The US Environmental Protection Agency, as well as its regional arm in New England, has sharply reduced the number of cases it has prosecuted for those violating federal environmental laws, according to a new analysis of the agency’s enforcement.

The EPA made only 166 referrals to the Justice Department for prosecution in 2018, the lowest total in 30 years and fewer than half the referrals made in 2012, according to figures obtained by the Public Employees for Environmental Responsibility, an advocacy group based in Massachusetts.

Of those referrals, none were made in New England.

The first seven months of 2019 have resulted in 102 referrals, setting a pace for a 25-year low, according to the group. There have been just two referrals made in New England over that time.

Moreover, the 78 pollution cases that the Justice Department prosecuted in 2018 were the fewest since 1994, and half as many as it brought in 2013, the group found. So far this year, the department has prosecuted just 36 cases, putting it on track for the fewest cases ever prosecuted.

The 62 convictions that the department won in 2018 was the lowest total since 1995 and less than half the number won in 2014, the group said. The department has won just 39 convictions in the first half of the year.

“These enforcement numbers are alarming and likely to get worse,” Tim Whitehouse, a former EPA enforcement attorney, said in a statement provided by the group.

Fewer referrals for prosecution probably mean fewer prosecutions and convictions in the coming years, he said.

"If pollution enforcement is viewed as a pipeline, under Trump the intake valve is being shut closed," he said.

A EPA spokesman disputed the group's numbers, saying the Justice Department had charged 105 last year and 92 defendants so far this year. The government has won 66 of this year's cases, an 86 percent conviction rate, the spokesman said.

"While the absolute number of cases opened and the number of defendants charged has been declining since 2011, the EPA is focused on the most significant violations of environmental laws," said spokesman Ken Labbe.

Cuts to environmental enforcement are familiar to residents of Massachusetts. In recent years, the state Department of Environmental Protection's enforcement of air and water quality rules fell sharply, as the agency's workforce shrunk by nearly a third.

Between 2006 and 2016, enforcement actions for serious violations of environmental laws in Massachusetts fell by more than half, as inspections also declined. Fines collected from violators plummeted during the same period by nearly 75 percent, according to a Globe review of state records.

The lack of federal enforcement of environmental laws comes as the number of agents at the EPA's Criminal Investigation Division remains below the 200 that are required by the 1990 US Pollution Prosecution Act, said Kyla Bennett, the group's science policy director and an attorney formerly with the EPA.

"Not only are there fewer pollution cops on the beat, but under new policies, Trump appointees make the call on whether criminal cases go forward," she said.

EPA officials now offer corporate polluters help in returning to compliance before penalizing them, she said.

"Corporate friends of this administration carry a 'Get Out of Jail Free' card in their back pockets," she said.

Labbe said "such inflammatory rhetoric may actually embolden criminal conduct under the mistaken belief that environmental crimes will not be detected and prosecuted."

Chemical Watch

State AGs sue US EPA over asbestos reporting

<https://chemicalwatch.com/79384/state-ags-sue-us-epa-over-asbestos-reporting>

Kelly Franklin

Attorneys general from nearly a dozen states have filed a lawsuit challenging the US EPA's denial of a petition to expand TSCA reporting requirements for asbestos.

The litigation relates to a petition filed earlier this year by a group of state AGs, in which they requested that the EPA develop an asbestos-reporting rule under section 8 of TSCA. At the time, they argued that more information on the substance was needed to support the agency's ongoing TSCA risk evaluation and potential future risk management actions.

However, the EPA denied the petition in April, as it had done previously with a similar petition filed by a group of NGOs. In its response, the EPA said it "believes that the agency is aware of all ongoing uses of asbestos".

But just as the NGOs subsequently filed a lawsuit challenging that denial, the state AGs have now done the same.

In the petition for review, filed in the US district court for the northern district of California on 28 June, AGs from 10 states and Washington, DC argue that the EPA itself has stated that imported volumes of products containing asbestos is unknown.

And the agency's failure to require this reporting "impairs its ability to identify and evaluate the universe of potential exposure pathways to asbestos," they said, "perpetuating a status quo where EPA makes regulatory assessments with unreliable and inadequate information."

The AGs are asking the court to compel the agency to begin a rulemaking process to develop new asbestos-reporting regulations that will:

eliminate exemptions as they relate to asbestos for "naturally occurring substances" and impurities, which exists under the chemical data reporting (CDR) rule;

require processors – who are not covered by the CDR rule – to report on asbestos usage; and

mandate reporting on imported articles containing asbestos.

"It is widely acknowledged that asbestos is one of the most harmful and toxic chemicals known to humankind," said California Attorney General Xavier Becerra.

"While it's troubling that we must once again take the EPA to court," he said, "there's too much at stake to let the EPA ignore the danger that deadly asbestos poses to our communities, including to workers and children."

The lawsuit has been brought by the attorneys general from California, Connecticut, the District of Columbia, Hawaii, Maine, Minnesota, Maryland, Massachusetts, New Jersey, Oregon and Washington.

Greenwire

At plaintiff's request, court dismisses NSR suit

<https://www.eenews.net/greenwire/stories/1060686223/search?keyword=EPA>

Sean Reilly, E&E News reporter

A federal court has dismissed a lawsuit challenging a rekindled EPA permitting policy at the request of the environmental group that brought the suit earlier this year.

The U.S. Court of Appeals for the District of Columbia Circuit dropped the suit late last week in response to an unopposed motion by the Natural Resources Defense Council. John Walke, the group's clean air director and the original attorney of record in the litigation, declined to comment on the reason for seeking the suit's dismissal and said the group does not plan to refile it.

The suit, brought in January, followed EPA's decision to revive a 2009 interpretation of one facet of its New Source Review pre-construction permitting program related to project "aggregation" (Greenwire, Jan. 18).

An EPA spokeswoman had no comment today on the suit's dismissal. Representatives for an array of business organizations that had intervened in the litigation either declined comment or said they did not know NRDC's rationale for standing down.

"I can only assume that they thought they did not have a solid case," said Shannon Broome, an attorney for Hunton Andrews Kurth LLP who had represented the American Petroleum Institute, the Portland Cement Association and some eight other trade groups. "Why else would you dismiss?"

The intervention of a wide swath of industries testified to the interest in the policy, which seeks to "clarify" when a string of operating or physical changes at a plant amount to a single project that would trigger New Source Review because it could lead to a significant increase in air pollution.

Under the revived policy, EPA presumes that any changes separated by at least three years are not "substantially related" unless there's evidence to the contrary. It also specifies that changes don't have to be aggregated simply because they support the plant's overall purpose.

EPA had adopted that reading in the final days of the George W. Bush administration. After President Obama took office, NRDC administratively petitioned the agency to reconsider. EPA officials then stayed the Bush-era interpretation and proposed to revoke it but never definitively followed through. Under the Trump administration, EPA rejected the reconsideration petition last November in a decision that also sought to buttress the rationale for the 2009 reading.

Businesses have been supportive of that interpretation, saying that it spelled out aggregation requirements more clearly. But in 2010 comments, Walke wrote that the policy weakened aggregation analysis and would lead to fewer projects being subject to New Source Review and more emissions "escaping review and control."

In a February listing of issues that it planned to raise in the D.C. Circuit litigation, NRDC questioned whether EPA had violated the Clean Air Act by narrowing its long-standing interpretation of the portion of the law that governs New Source Review applicability.

Also at the council's request, the court last week dismissed a 2009 suit challenging the policy that had long been on hold while the administrative reconsideration process played out.

Greenwire

Greens plan to sue EPA over slaughterhouse water pollution

<https://www.eenews.net/greenwire/stories/1060686291/search?keyword=EPA>

Marc Heller, E&E News reporter

Environmental groups said today they'll sue EPA to force the agency to update wastewater pollution guidelines for slaughterhouses.

The Environmental Integrity Project, Earthjustice and other organizations informed EPA Administrator Andrew Wheeler in a letter that they intend to sue the agency in federal court for alleged failure to meet requirements under the Clean Water Act.

The groups said EPA hasn't conducted required annual reviews of meat and poultry facilities in at least three years. Some slaughterhouses are still operating under guidelines developed as long ago as 1974, they said, although EPA updated some guidelines in 2004 for facilities discharging wastewater into rivers and streams.

Groups said EPA hasn't reviewed pre-treatment guidelines for slaughterhouses that send wastewater to public treatment facilities.

"Some of the world's largest meat companies are dumping huge volumes of pollution into America's rivers, contributing to toxic algae, dead zones and fecal bacteria that can make swimmers sick," said John Rumpler, clean water program director at Environment America, in a news release.

Of more than 5,000 slaughterhouses in the United States, about 4,700 are allowed to discharge treated wastewater into waterways or to public treatment plants, the groups said. More than 8 billion chickens, 100 million hogs and 30 million beef cattle are processed each year in U.S. slaughterhouses, they said.

The biggest slaughterhouses can be found in northeast and northwest Arkansas, central Mississippi, Iowa, northern Georgia, east-central Pennsylvania, eastern North Carolina, southern Indiana and Sussex County, Del., the groups said.

Wastewater from slaughter facilities is a particular concern, researchers say, because of the wide variety of potential pollutants from the processing of meat and washing of facilities. Those include fat and proteins from the meat, as well as other organic matter, pathogens and drug residue from veterinary treatments.

Researchers say the solution often involves a mix of anaerobic — without oxygen — treatment, followed by aerobic treatment to make waste comply with discharge limits. Additional, non-biological, treatment can address toxic and non-biological substances present in some slaughterhouse wastewater, researchers at Ryerson University in Canada said in a 2017 study.

The North American Meat Institute, representing the red meat and turkey industries, said in a statement, "Wastewater management is a constant focus in the industry, and companies are always evaluating ways to limit their impact as much as possible regardless of EPA oversight. As the Environmental Integrity Project points out, many have had great success, and the industry regularly works together through education and awards programs to share best practices for effective wastewater management."

NAMI awards members for environmental improvements, said a spokeswoman, Sarah Little. In the last round, several members received awards for advancing technologies and procedures for improving water quality and wastewater management, she said.

Conservation groups noted inconsistency from one facility to another.

"The most polluting plants also release far more pollution than the cleanest plants," said Sylvia Lam, a lawyer with the Environmental Integrity Project. "EPA needs to step in, set stronger national water pollution standards for meat and poultry processing plants, and level the playing field."

The lawsuit follows a report last year by the Environmental Integrity Project that said three-quarters of the large slaughterhouses that discharge directly into streams and rivers violated pollution control permits at least once for nitrogen, fecal bacteria or other pollutants over two years, facing little or no enforcement.

In 2016, Environment America found that the processing plants of just a few large agribusiness companies discharged more than 250 million pounds of toxic pollution into America's waterways over a five-year period.

The Hill

Green groups sue EPA for exempting farms from reporting pollution tied to animal waste

<https://thehill.com/policy/energy-environment/451306-green-groups-sue-epa-for-exempting-farms-from-reporting-pollution>

BY REBECCA BEITSCH

A coalition of green groups sued the Environmental Protection Agency (EPA) late Monday over a rule that lifts requirements for major farms to report the pollution they emit through animal waste.

The rule, released in June, spurred criticism from environmental groups who say nearby communities would no longer have access to information about harmful gases being released into the air.

"Trump's EPA wants meat factories to keep their toxic air emissions secret, despite a clear statutory mandate to disclose, once again promoting the interest of some of the worst polluters at the expense of public health," said Carrie Apfel, a staff attorney for Earthjustice, the group leading the suit. "What EPA is doing is illegal, and an affront to rural families that have every right to know what's in the air they breathe."

Earthjustice and other groups backing the lawsuit contend that large farms previously subjected to the rules emit enough harmful pollutants that nearby residents need to be informed in order to be able to respond to possible health problems appropriately.

Apfel said at the time of the rule's release that people with chronic health problems are seeking medical care from doctors who are asking what they might be exposed to — information they currently can only get from such reports.

Animal waste is collected and stored in open pits often called lagoons across many industrial farms in the U.S. As the manure decomposes, it emits ammonia and hydrogen sulfide, which have been linked to respiratory issues and other health problems.

People who live near farms have long complained of the odor, but they also attribute asthma, headaches, nausea and a stinging sensation in their lungs to farm pollution.

Farms have called the reporting requirements onerous.

“Routine emissions from agricultural operations are not a threat to local communities,” the National Cattlemen’s Beef Association said in a statement when the rule was first released. “We are glad to see EPA fully implement the law by providing relief from burdensome state and local reporting requirements.”

EPA has maintained that Congress intended to remove state-level reporting requirements for farm waste when it got rid of the federal ones — something environmental groups dispute.

PFAS

Buzzfeed News

“Forever Chemicals” Are Turning Up In Milk, Eggs, And Fruit. And Closing Farms.

<https://www.buzzfeednews.com/article/nidhisubbaraman/pfas-food-farms-milk-produce>

Nidhi Subbaraman

“Forever chemicals” linked to cancer are turning up in farm produce across the country, leading farms to lay off workers, incinerate cranberry harvests, kill cows, and dump thousands of gallons of dairy milk.

Such long-lived “fluorinated” compounds have been measured in the drinking water in over 600 locations in 43 states, near factories or military bases that use them in firefighting foams. Best known as PFAS chemicals (short for per- and poly-fluoroalkyl substances), they line numerous waterproof consumer goods, from hiking shoes to pizza boxes.

Now, their emergence in farm produce has spurred state and federal agencies to ramp up efforts to test for the chemicals in a wider variety of foods, and fund studies to track how the chemicals enter the food supply.

In June, the FDA announced the results of its first tests for PFAS compounds in supermarket staples, including cooked meat, fruit, and in iced chocolate cake. The health agency said it did not see a “food safety risk” in its sampling, and did not find PFAS chemicals in most foods. But it did report PFAS in milk and produce that had been farmed near polluted locations. While NIH and CDC researchers are still studying the health effects of the chemicals, some are known to hinder growth and learning in children, lower chances of pregnancy, and increase the risk of cancer.

Farmers, meanwhile, are already reeling.

“They’ve ruined us,” Fred Stone, a Maine farmer who stopped selling milk after PFAS chemicals turned up in it in 2016, told BuzzFeed News. At Stone’s Stoneridge Farm in Arundel, the suspected source is PFAS-laced sludge that Stone had spread on his fields as fertilizer, a practice the state has permitted many farms to do. The milk tested at 690 parts per trillion for PFAS, nearly ten times the EPA’s guideline for two of the chemicals. More than two years on, Stone and his wife still take care of their remaining 60 cows, but can’t sell their milk. Stone estimates he’s spent some \$10,000 on tests, and is losing over \$400 daily. “Our assets are our livestock and our farm, and now we’re nothing now. And this is an operation that goes back 100 years,” Stone said.

MAINE

Well beyond Stoneridge Farm, Maine state officials are grappling with contaminated sludge on farms. The Maine Department of Environmental Protection tested 44 samples from other farms and compost facilities, for example, The Intercept reported last month. The agency detected at least one PFAS compound in every sample.

Fred Stone checks on his cows in March.

Last week, the state reported the first results of statewide milk testing: Three farms which had also used possibly contaminated sludge did not show detectable levels of PFAS in the milk. Also, the Maine Department of Agriculture Conservation and Forestry tested 26 samples from retail milk bottled or sold in Maine, including Horizon Organic, HP Hood, and Cumberland Farms Dairy Pure brands, and announced that all fell below the state's detection limit.

"We estimate that this sample effort captures 75% of all milk sold in Maine and all Maine-produced fluid pasteurized milk sold in the state," agency spokesperson Jim Britt wrote to BuzzFeed News in an email.

But Patrick MacRoy of Maine's Environmental Health Strategy Center, an environmental group, told BuzzFeed News that the state's results were wanting: First, he said the state's detection limit of 50,000 parts per trillion was too high. Second, the state needed to test many more farms that used PFAS-laden sludge. And finally, retail milk is typically a mix of milk from many dairies, so problematic milk would be diluted and might escape detection.

"The state needs to actually go out and test all the farms that have a history of sludge use," MacRoy said. "That's the only way we're going to understand where the hotspots are and where the farms are unknowingly producing contaminated milk."

NEW MEXICO

Across the country, a New Mexico farm with heavily contaminated milk now has the attention of the FDA and the US Department of Agriculture. Without naming the farm, the FDA's June announcement included tests near a Clovis site — and the agency reported that it found the chemicals in the milk, and also in the cheese.

Art Schaap's farm is close to an Air Force base in New Mexico.

Around the time of those tests, dairy owner Art Schaap of Clovis, New Mexico, told Search Light New Mexico that he was dumping 15,000 gallons of milk daily and was looking to euthanize 4,000 cows after the Air Force found sky-high levels of PFAS in his water last year, some 171 times the EPA's health advisory level of 70 parts per trillion. Cannon Air Force Base is a short drive away the dairy.

In March, the US Department of Agriculture began two studies of PFAS in cows from Schaap's herd, and will analyze plasma, blood and tissue samples from some 120 cows, to calculate how PFAS levels in water translate to PFAS levels in milk and meat.

"Right now we can sample the blood, but we don't know how that correlates to levels in the meat at all," Shanna Ivey, professor of animal science at New Mexico State University, who is working with the USDA, told BuzzFeed News. The university is working with 10 live cows from Schaap's farm to study how long it takes for PFAS to leave the animals once they start drinking water without PFAS compounds in it.

Ivey said the results will be shared with the FDA and the USDA's Food Safety and Inspection Service, as well as the Agricultural Research Service. "Any area that has an Air Force base which has agriculture co-located is going to be facing similar problem," she said.

MASSACHUSETTS

So far, no federal agency has put a legal limit on PFAS compounds in food — the EPA's levels are merely guidelines, Ivey pointed out. But that hasn't stopped businesses from rejecting Schaap's dairy products or food from contaminated sites elsewhere.

In Massachusetts, for example, Ocean Spray rejected cranberries from a PFAS-contaminated bog on Cape Cod for two years running, despite state and FDA tests that failed to detect PFAS in the fruit, according to meeting minutes from a local PFAS remediation group that included local government and military officials. The cranberry crop was incinerated. (Massachusetts is the number two producer of cranberries in the US, after Wisconsin.)

The Mass. Department of Environmental Protection tested affected cranberry bogs in 2016, 2017, and 2018, and almost no cranberry samples had detectable levels of PFAS.

COLORADO

In an early sign of the economic effects of PFAS, Venetucci Farm near Colorado Springs, stopped all agricultural production and let go of staff after PFAS chemicals were discovered in 2016 in the water used by the property, linked to firefighting foams used at Peterson Air Force Base.

Susan Gordon, former manager at Venetucci, struggled to make a case for keeping the farm and produce, but had trouble finding safety data for food from the government, she told BuzzFeed News. Erring on the side of “extreme caution,” Gordon said, the owners shut the farm down.

Private tests of the farm’s produce shared with BuzzFeed News showed that the compounds had infiltrated almost every type of food tested, including spinach, garlic, and carrots, as well as in eggs, pork and beef from cows raised on the property.

Ultimately, any potential health risks from consuming the tainted food would depend on how much a person ate, and how frequently, Christopher Higgins, a civil engineering professor at the Colorado School of Mines told BuzzFeed News by email.

“The primary takeaway from the Venetucci data is that it is not far-fetched for these chemicals to end up in a wide variety of foods at measurable amounts at PFAS-impacted sites,” Higgins said. Higgins is part of a research team that won an EPA grant to study the extent to which PFAS compounds accumulate in food. “It’s one thing to show it in a greenhouse or even in a controlled experimental plot (as we did), it is another to see some chemicals show up in food that people are actually eating.”

It’s possible other farms in the area are affected, but owners in every state are now wary of testing for the chemicals.

“No farmer in his or her right mind would go looking for it, because it would ruin them,” Gordon said.

Waste

Bloomberg Environment

EPA Exemptions for Reclaimed Waste Upheld by D.C. Circuit

<https://news.bloombergenvironment.com/environment-and-energy/epa-exemptions-for-reclaimed-waste-upheld-by-d-c-circuit>

Mike Leonard

A federal appeals court has upheld an Environmental Protection Agency rule exempting some industrial byproducts from regulations governing “discarded” waste if they’re turned over to a “reclaimer” rather than stored or treated.

That “transfer-based exclusion” didn’t violate the Resource Conservation and Recovery Act, the U.S. Court of Appeals for the District of Columbia Circuit held July 2, dismissing a challenge by the environmental group California Communities Against Toxics. Waste isn’t necessarily “discarded” when it’s transferred to a reclaimer, the appeals court found.

Judge Judith W. Rogers, writing for the court, rejected the environmental group’s argument that paying a third party to take industrial waste is the very definition of “discarding” it. The RCRA doesn’t explicitly define the term, its meaning is

ambiguous based on context and legislative history, and courts have repeatedly held that “plain meaning” isn’t a useful concept when it comes to technical or industry terms, Rogers said.

As a result, the EPA’s interpretation should be given Chevron deference, which asks whether it was reasonable, not necessarily whether it was optimal, the D.C. Circuit found. Because the rule’s purpose was to incentivize proper recycling methods, and the EPA has found that reclaimers fit that need, it was reasonable for the agency to exempt material transferred to them, the court said.

“EPA has sufficiently explained its different treatment of similar materials,” Rogers wrote.

Greenwire

D.C. Circuit upholds waste rule

<https://www.eenews.net/greenwire/stories/1060686255/search?keyword=EPA>

Ellen M. Gilmer, E&E News reporter

Federal judges today rejected environmentalists' claims that an EPA rule for hazardous waste disposal was unjustified and beyond the agency's authority.

The U.S. Court of Appeals for the District of Columbia Circuit upheld EPA's "transfer-based exclusion" under the Resource Conservation and Recovery Act.

The rule, first adopted in 2008 before being sidelined and later reinstated, classifies as recycled certain hazardous solid waste that is transferred from a waste generator to a third-party reclaimer. The classification exempts the waste from RCRA regulations governing discarded material.

An environmental coalition challenged the exclusion, arguing that waste transferred to a reclaimer squarely triggers the statute's regulation of "discards." They further claimed EPA failed to explain how the approach meets RCRA's goals of protecting human health and the environment.

"We conclude, in view of this court's precedent, that EPA did not act contrary to RCRA in adopting the Transfer-Based Exclusion because hazardous secondary materials are not necessarily 'discarded' each time they are transferred from a generator to a reclaimer along with payment," Judge Judith Rogers wrote for the court.

"Further we conclude that EPA has provided a reasoned explanation for applying different standards to materials that are not yet part of the waste disposal problem RCRA addresses where they meet conditions EPA concluded were adequate for safe transfer and legitimate recycling," the Clinton appointee added.

Judge Karen Henderson, a George H.W. Bush appointee, and Senior Judge David Sentelle, a Reagan appointee, also sat on the panel. Environmental groups, industry and EPA have litigated multiple versions of waste transfer rules since 2008.

Earthjustice lawyers who represented environmentalists in the case did not immediately respond to a request for comment.

Water

Business Insider

Vintage EPA photos reveal what US waterways looked like before pollution was regulated

<https://www.businessinsider.com/vintage-epa-photos-reveal-us-waterways-before-pollution-was-regulated-2019-6>

Aylin Woodward

The US Environmental Protection Agency (EPA) was created in 1970. One of its objectives was to regulate pollution in America's waterways.

Following its founding, the EPA dispatched photographers to catalogue the state of the country's pollution. Those photographs reveal polluted rivers and garbage-choked coastlines.

Visit Business Insider's homepage for more stories.
Just over 50 years ago, Ohio's Cuyahoga river caught fire.

The disaster prompted a public outcry that in part led to the formation of the US Environmental Protection Agency (EPA) in 1970. The EPA was charged with regulating the country's polluted air and waterways, among other environmental objectives.

Soon after its founding, the agency dispatched 100 photographers to capture the US' environmental issues as part of a photo project called Documerica. The photographers took about 81,000 images, more than 20,000 of which were archived. At least 15,000 have been digitized by the National Archives, and the images now function as a kind of time capsule, revealing what states from California to New York looked like between 1971 and 1977.

[Read More: Photos reveal what New York City looked like before the US regulated pollution](#)

Many of the photos were taken before the implementation of rules meant to keep water and air free of contamination.

The images of polluted waterways are especially striking. The following Documerica photos reveal what US rivers, streams, and coastlines looked like before the EPA started regulating pollution.

The Cuyahoga river, which flows through Cleveland, was once one of the most polluted in the country, with nearly black water because of oil pollution.